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- allowing the maintainer composition to remain on the surface for a period of time; and

- removing excess that portion of the maintainer composition not filling in the pores from the surface;

wherein the porous surface has a slip coefficient of friction value of at least 0.5 after removing excess the portion of the maintainer composition not filling the pores from the surface.

#### REMARKS

Claims 1-11, 13-16 and 18-25 are currently pending in the application. Claims 1, 10, 18 and 25 have been amended. Claims 12 and 17 have been cancelled. Support for these claim amendments may be found throughout the specification as filed and in particular at pages 8 and 11 of the specification and Examples 1-12.

In view of the foregoing amendments and following remarks, reconsideration and withdrawal of the rejections to the application in the Office Action is respectfully requested.

In the Office Action, the Examiner maintained the rejection of claims 1-15 under 35 USC § 112, first paragraph, because the Examiner took the position that the specification, while being enabling for "concrete", does not reasonably provide enablement for a "soiled porous surface". With the enclosed amendments, Applicants believe that the claims as amended overcome this rejection.

In the Office Action, the Examiner rejected claims 1-25 under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,656,683 to Ruggiero, et al. further in view of U.S. Publication No. 2002/0065355 to Terasse, et al. Applicants respectfully disagree with the Examiner's assessment regarding the patentability of the rejected claims based on Ruggiero, et al. '683 further in view of Terasse, et al. '355.

The currently pending claims are directed to a method for enhancing the appearance of a concrete surface which includes pores. The method includes applying a concentrated alkaline cleaning composition to the soiled surface, allowing the cleaning composition to remain on the

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surface for a period of time and rinsing the surface with water. Thereafter, a maintainer composition, which includes a pore-filling component is applied to the surface. The pore-filling component is selected from the group consisting of plasticizers, surfactants, soaps, oils and combinations thereof. The maintainer composition is diluted with water at a dilution ratio of 1:64 to 1:512, maintainer composition to water prior to application to the surface. The maintainer composition remains on the surface for a period of time, after which excess maintainer composition, that portion of the maintainer composition not filling in the pores, is removed from the surface. At no time is the maintainer composition allowed to dry on the surface, and is, as previously argued, at the dilution ratio practiced by the inventive method incapable of coating formation. Further, the subsequent removal of that portion of the maintainer composition not filling in the pores from the surface after application would make uniform coating formation difficult at best, if not impossible. Contrary to the Examiner's assertion, the maintainer composition utilized in the inventive method would not be considered a "coating composition" by one of ordinary skill in the art because of its content, application dilution ratio, and subsequent removal. Contrary to the Examiner's citation of paragraph 0015, the excess maintainer is not allowed to dry but rather a careful analysis of paragraph 0015 of the specification indicates that "any excess maintainer is then rinsed and removed from the surface. The surface is then allowed to dry." (Emphasis Added).

Further, the Examiner's citation to paragraph 0030 of the specification and Figure 4 as support for film formation is incorrect. An analysis of *Merriam-Webster's Collegiate Dictionary, Tenth Edition*, a copy of which is enclosed for the Examiner's reference, indicates that the word "film" has several definitions, one of which is "a thin covering or coating". Another definition is "an exceedingly thin layer". Applicants understand that Examiner's position of the word "film" refers to the former definition, while Applicants' use of the term in the specification was in reference to the latter definition, "an exceedingly thin layer" Merriam-Webster, Incorporated, *Merriam-Webster's Collegiate Dictionary, Tenth Edition*, Pg. 435 (2000). This is consistent with Applicant's position and the description found in the specification of the instant invention in that the maintainer composition at the dilution ratios would not provide for "a film or coating formation". Further, as evidenced by the enclosed Declaration of David H. Mauer, the terms "film" and "coating" are not interchangeable to one of

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ordinary skill in the art. Rather, one of ordinary skill in the art would understand the term "film" to mean a thin layer of either a liquid, gel or solid material. Conversely, the term "coating" is understood in the surface care area to mean a continuous layer of a solid material. Thus, a "coating" is one type of film, but not all films are coatings. This is consistent with Applicants' use of the term "film" in the specification as a thin layer of the maintainer composition. Applicants make no mention of a coating composition or application of a "coating" other than to distinguish the inventive method from the prior art.

As previously discussed, the Ruggiero, et al. '683 reference relates to a cleaning composition comprising a) at least one additive selected from the group consisting of detergents, corrosion inhibitors, organic and aqueous carriers, and combinations thereof, b) a wetting/cleaning agent selected from the group consisting of piperazine-substituted organosulfonates, piperazinone-substituted organosulfonates, and combinations thereof, and c) a surfactant selected from a group consisting of alcohol alkoxylates, organic and inorganic salts of polycarboxylated alcohol alkoxylates, and combinations thereof. The Examiner has previously acknowledged that the Ruggiero, et al. '683 reference discusses the cleaning of concrete, but does not include or disclose subsequently applied coating components.

As previously discussed, contrary to the Examiner's assertion, the present invention does not disclose subsequently applied coating components. Rather, Applicants' invention is clearly directed to a maintainer composition which does not form a coating in the sense of the Teras, et al. '355 reference, relied on by the Examiner. One of ordinary skill in the art would be expected to apply a coating composition which forms a semi-permanent or permanent coating to the surface after a cleaning based on the prior art. To provide for formation of such a coating, this coating composition would not be removed from the surface prior to drying. This is contrary to the present invention which seeks to remove the excess maintainer composition, i.e. that portion of the maintainer composition not filling in the pores of the surface, and, as previously discussed, not form a permanent or semi-permanent coating. The shortcomings of such a coating formation and use on a porous surface are discussed in the "Background" section of the present application. Such applications are distinguished from the presents invention which does not leave a "coating" on the surface. Further, as an additional step, the inventive method can include reapplication of

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the maintainer composition on a periodic basis. One of ordinary skill in the art would know that a coating composition which forms a semi-permanent or permanent coating would trap and encase dirt particles and result in a soiled surface as is confirmed by the Declaration of David H. Maurer. Conversely, subsequent reapplication of the maintainer composition of the present invention to the surface and subsequent removal of the excess on a periodic basis removes soil from the surface. Clearly, Applicants' invention would not be obvious to one of ordinary skill in the art in view of Ruggiero, et al '683.

As previously pointed out to the Examiner, the Terasse, et al. '355 reference is directed to a floor polishing composition containing a "film-formable" organic high molecular material as the main component, which further contains at least scaly particles. The Terasse, et al. '355 reference is clearly directed to coating formation and coating a surface with a permanent or semi-permanent coating where smoothness of the coating is critical. In particular, the Terasse, et al. '355 reference requires a coating amount by one time is 1 to 10 g/m<sup>2</sup> as a solid content to the applied floor. See paragraph 116. The Terasse, et al. '355 reference requires that the coating be applied to the surface and allowed to dry.

As previously argued, such a composition as found in Terasse, et al. clearly differs from the maintainer composition of the present invention, contrary to the Examiner's assertion. As previously mentioned, the inventive method requires that the maintainer composition be applied to the surface and then subsequently that portion not filling the pores is removed utilizing, for instance, a wet-vac machine. Therefore, no coating formation is allowed to occur. As previously argued and supported by the Declaration of David H. Maurer, one of ordinary skill would readily recognize that even if a true coating composition was applied to a surface, it would never be subsequently removed prior to drying since such removal would not result in continuous film coating formation. A coating composition must be applied appropriately and allowed to remain on the surface undisturbed until dry for continuous film coating formation. (Emphasis added). Declaration of David H. Maurer.

Further, the required dilution of the maintainer composition prior to application to the surface would not allow for coating formation even if the diluted maintainer composition was

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allowed to dry on a surface because there are no potentially solid coating forming components present in sufficient quantities to form such a coating. This is supported by the Declaration of David H. Mauer in which he indicates that the maintainer composition at the dilution ratio as required by the present invention would in no way form a coating. As previously mentioned, what Applicants desire is that the pore filling component of the maintainer composition fill the pores of the porous concrete surface, not to form a coating but to temporarily fill the gaps or pores thereby preventing soil particles from becoming reembedded or deposited in such pores. See paragraph 0030. That portion of the maintainer composition not embedded in the pores is removed from the concrete surface, for example, by vacuuming. Further, as evidenced by the Declaration of David H. Mauer, either undiluted maintainer composition, or maintainer composition diluted at the dilution ratios of the inventive method will not form a coating. Rather, the result would be a free flowing, high viscosity, liquid that is slippery to the feel and has no durability as is associated with a solid coating." Declaration of David H. Mauer.

Additionally, as previously discussed, as a further step, the inventive method can include reapplication of the maintainer composition on a periodic basis. As is evidenced by the enclosed Declaration of David H. Mauer, one of ordinary skill in the art would know that a coating composition which forms a semi-permanent or permanent coating as in Terasse, et al '355 would trap and encase dirt particles and result in a soiled surface which would have to be stripped from the surface to remove the soil. Conversely, reapplication of the maintainer composition at the suggested dilution ratios of the present invention to the surface on a periodic basis and subsequent removal of the excess portion of the maintainer composition not filling in the pores of the surface removes soil from the surface.

Clearly, the formulations of the Terasse, et al. '355 reference are coating compositions which form permanent or semi-permanent coatings which are different from the maintainer composition of the present invention. Additionally, the combination of the Ruggiero, et al. '683 reference and the Terasse, et al. '355 reference, in no way teach, suggest nor render obvious the present invention. The Ruggiero, et al. '683 reference makes no mention of applying a diluted maintainer composition to a surface after cleaning with a cleaning composition. The Terasse, et al. '355 reference does not teach a diluted maintainer composition as in the present invention, but

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rather is directed to a coating composition which forms a permanent or semi-permanent coating on a surface. Such a coating composition is allowed to dry on the surface and is not removed prior to evaporation of all the volatile components. As previously discussed, the maintainer composition of the inventive method does not form such a permanent or semi-permanent coating on the surface and is incapable of forming such a coating, based on its dilution ratios. The Terasse, et al. '355 reference clearly teaches the necessity of forming a coating on the surface. Therefore, a combination of the Ruggiero, et al. '683 reference and Terasse, et al. '355 reference would result in a porous concrete surface coated with a permanent or semi-permanent coating, something clearly distinguished as problematic, undesirable and expensive in the "Background" section of the present application. Thus, the present invention is in no way rendered obvious by the Ruggiero, et al. '683 reference further in view of the Terasse, et al. '355 reference.

### CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully request that the Examiner reconsider and withdraw the rejections discussed above. Applicants also solicit an early notification of allowance. If Examiner Petruncio has any questions, or believes a telephone discussion would expedite prosecution, he is invited to contact the undersigned at telephone number 262-631-4495.

The Office is hereby authorized to charge any fees which may be due, or to credit any overpayments made, to Deposit Account No. 50-0231.

Respectfully submitted,

Dated: July 18, 2005

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Merriam-  
Webster's  
**Collegiate<sup>®</sup>**  
**Dictionary**

TENTH EDITION

THE WORDS YOU NEED TODAY

- Clear and precise
- Best guidance on word choice
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AN ENCYCLOPEDIA BRITANNICA COMPANY

a child or offspring

ing experiment that  
spectively different

ship esp. of a son to  
parent or derivation  
case of determining

eshooter) (1851) 1  
ican engaged in fo-  
id-19th century 2  
in an attempt to de-  
b: an instance of

: to carry out insur-  
age in a filibuster ~  
car n  
a filament



illegible 2a

... heavy with lab

wn with or as if with

ing a file 2: a frag.

o- + plastic) (1893)  
of ancestors or trad.

dri or woman  
1: a native of the  
of the Philippines —

re (bef. 12c) 1a: to  
contained ~ a cup  
the class is already  
ed the falls) (2): to  
vol of with fill ~ed  
stop up ~ construc-  
the interstices, crev-  
foreign substance 2  
all requirements) ~  
out a form) ~ in  
ary to complete (as a  
hole of (smoke) ~ed  
all (a mind) ~ed with  
of: HOLD ~ an of-  
to supply as directed  
th a layer of precious  
o take over one's job,

that satisfies or sat-  
material used to fill  
a bit of instrumental  
a vocalist or soloist)  
nd 2: to proceed on

substance added to a  
motory, or strength) b  
sp. of a wood surface  
cover or fill in a space  
to form the core of  
column or page of a  
loose-leaf notebook  
used to fill pauses in

(1904) — see *forint* &

fillet (fil-ia, fil-ia) n  
[14c] 1: a ribbon  
id 2a: a thin narrow  
meat or fish; esp.: the  
ed where two surfaces  
rounded appearance to  
der where two surfa-  
or: a: a flat molding  
he space between two

b) 1: to blind, furnish,  
fillets  
angular cross section

har fills in  
acquired information  
in detail ~ vi: to fill &

filling 2: something  
something that cov-  
fabric; also: yarn for  
or sandwiches

a: to make a filipino  
of him on the nose)  
under off the table)  
~ Westoby

filip n (1519) 1a: a blow or gesture made by the sudden forcible  
straightening of a finger curled up against the thumb b: a short sharp  
blow; *sufter* 2: something tending to arouse or excite as a: *stir-*  
blow (but the ~ my confidence needed) *Clent* a ~ of danger to the  
slugs (b: a trivial addition; *hassellishment* (showy ~ of lan-  
guage) c: a significant and often unexpected development: *WRINKLE*  
glide)  
(plot twist and ~)

fil out v (1888): to put on flesh  
fil up (fil-up) n (1853): an action or instance of filling up something  
(as a tank)

filby (fil-by) n, pl *filbes* [ME *filby*, fr. ON *filba*: akin to OE *folia* foal] (15c)  
1: a young female horse usu. of less than four years 2: a young woman  
in: *fil*

filim (fil-um) n, pl *filims* [ME *filim*, fr. ON *filim*, fr. OE *filim*, fr. OE *fil-*  
filim, akin to Gk *filma* sole of the foot, OE *fell* skin — more at *FELL*]  
1a: a thin skin or membranous covering: *PELLICLE* b: an  
abnormal growth on or in the eye 2: a thin covering or coating (as ~  
of ice) 3a: an exceedingly thin layer: *LAMINA* b (1): a thin flexible  
of (as of plastic) used esp. as a wrapping (2): such a  
transparent sheet of cellulose acetate or nitrocellulose coated with a radiation-  
sensitive emulsion for taking photographs 4: *MOTION PICTURE*

film w (1602) 1: to cover with or as if with a film 2: to make a mo-  
tion picture of or from (~ a scene) ~ vi 1: to become covered or  
shrouded with or as if with a film 2: to make a motion picture —  
film-able (fil-mo-bal) adj

film-able (fil-mo-bal) adj  
film badge n (1945): a small pack of sensitive photographic film worn  
as a badge for indicating exposure to radiation

film-charge (fil-mo-cha) n (1914): the motion-picture industry  
film-charge (fil-mo-cha) n (1919): one who frequently attends films  
film-ic (fil-mik) adj (ca. 1930): of, relating to, or resembling motion  
pictures — film-ically (fil-mik-ly) adv

film-land (fil-mo-land) n (1913): *FILMDOM*  
film-maker (fil-mo-mak-er) n (1908): one who makes motion pictures  
film-making (fil-mo-mak-ing) n (1913): the making of motion pictures  
film- noir (fil-mo-noir) n [F, lit. black film] (1958): a type of crime film fea-  
turing cynical malevolent characters in a sleazy setting and an ominous  
atmosphere that is conveyed by shadowy photography and foreboding  
background music; also: a film of this type

film-ography (fil-mo-gra-fee) n, pl *film-ographies* (as in *biog-*  
raphy) (1962): a list of motion pictures featuring the work of a  
prominent film figure or relating to a particular topic

film-photography (fil-mo-fot-og-ree) n (1934): *PHOTOGRAPHY* — film-phot-  
ography (fil-mo-fot-og-ree) n

film-strip (fil-mo-strip) n (1930): a strip of film bearing a sequence of  
images for projection as still pictures

filmy (fil-mi) adj film-like; -est (1604) 1: of, resembling, or com-  
posed of film: *GAUZY* ~ (draperies) 2: covered with a haze or film  
~ film-ily (fil-mi-ly) adv ~ film-likeness (fil-mi-ness) n

fillo also *fil-lo* var of *PHYLLLO*  
fillo — see *FILLO*

filter (fil-er) n, pl *filters* [Ar] (1931) — see *diwan*, *diwan*, *rial* at *MONEY* table  
filter (fil-er) n [ME *filter*, fr. ML *filtrum* piece of felt used as a filter,  
of Gmc origin; akin to OHG *filz* felt — more at *FILZ*] (1563) 1a: a po-  
rous article or mass (as of paper or sand) through which a gas or liquid  
is passed to separate out matter in suspension b: something that has  
the effect of a filter 2: an apparatus containing a filter medium 3a:  
a device or material for suppressing or minimizing waves or oscilla-  
tions of certain frequencies (as of electricity, light, or sound) b: a  
transparent material (as colored glass) that absorbs light of certain  
wavelengths or colors selectively and is used for modifying light that  
reaches a sensitized photographic material — called also *color filter*

filter v (1576): to remove by means of a filter ~ vi 1: to pass or  
move through or as if through a filter 2: to come or go in small units  
over a period of time (people began ~ing in)

filterable (fil-er-able) adj (1908): capable of being  
filtered or of passing through a filter — filter-ability (fil-er-abil-i-ty) n

filter-bed (fil-er-bed) n (1911): any of the infectious agents that pass through  
a filter of diatomite or unglazed porcelain with the filtrate and remain  
virulent and that include the viruses as presently understood and vari-  
ous other groups (as the mycoplasmas and rickettsias) which were origi-  
nally considered viruses before their cellular nature was established

filter bed n (ca. 1874): a sand or gravel bed for filtering water or sew-  
age

filter feeder n (1928): an animal that obtains its food by filtering or-  
ganic matter or minute organisms from a current of water that passes  
through some part of its system

filter paper n (ca. 1846): porous unsized paper used esp. for filtering  
filter tip n (1932): a cigar or cigarette tip designed to filter the smoke  
before it enters the smoker's mouth; also: a cigar or cigarette provided  
with such a tip — filter-tipped (fil-ter-tipt) adj

filth (filth) n [ME, fr. OE *filth*, fr. *fil* (to fil) (bef. 12c) 1: foul or filthy  
substance; esp.: filthy or dirty or refuse 2a: moral corruption or defile-  
ment b: something that tends to corrupt or defile

filthy (fil-thi) adj filthy-ly, -est (14c) 1: covered with or containing  
filth 2: offensively dirty 2a: *UNDERHAND*, *VILE* b: *OBSCENE* syn  
filthy — filthy-ly (fil-thi-ly) adv — filthy-ness (fil-thi-ness) n

filtrate (fil-trate) n (ca. 1846): fluid that has passed through a filter  
filtration (fil-tray-shun) n (1605) 1: the process of filtering 2: the  
process of passing through or as if through a filter also: *PURIFICATION*

filtrum (fil-trum) n, pl *filtrums* (fil-trum) [NL, fr. L *filtrum*] (1752)  
1: a bordering fringe esp. at the entrance of the fallopian tubes — fil-  
trum-ally (fil-trum-ali) adv

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filtrum-ally (fil-trum-ali) adv  
filtrum-ally (fil-trum-ali) adv

the v (1933): to equip with fins ~ vi 1: to show  
the fins above the water 2: to move through the water propelled by  
fins

fin n [Yiddish *fin* five, fr. MHG, fr. OHG — more at *FIVE*] (1923) *slang*  
1: a 5-dollar bill

fin-ale (fin-ale) n, pl *fin-ales* [It. *finale*, fr. *fin* (perh. alter. of  
*finale* (to renage)) v (ca. 1924) 1: to obtain by indirect or involved  
means 2: to obtain by trickery ~ vi: to use devious or dishonest  
methods to achieve one's ends — fin-ale-ly (fin-ale-ly) adv

fin-ale (fin-ale) n, pl *fin-ales* [It. *finale*, fr. *fin* (perh. alter. of  
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